



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2911

Introduced 2/4/2020, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

30 ILCS 5/6-1
35 ILCS 5/917

from Ch. 15, par. 306-1
from Ch. 120, par. 9-917

Amends the Illinois State Auditing Act. Provides that federal tax information disclosed under the Act shall only be provided in accordance with federal law and regulation applicable to the safeguarding of federal tax information. Provides that the specified requirements concerning confidentiality of information apply to contractors of the Office of the Auditor General. Removes prior provisions concerning the release of confidential income tax records. Amends the Illinois Income Tax Act. Provides that the furnishing upon request of the Auditor General, or his or her authorized agents, for official use of tax returns filed and information related thereto under the Act is deemed to be an official purpose within the Department of Revenue for the purposes of confidentiality and information sharing. Effective immediately.

LRB101 19828 RJF 69348 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois State Auditing Act is amended by
5 changing Section 6-1 as follows:

6 (30 ILCS 5/6-1) (from Ch. 15, par. 306-1)

7 Sec. 6-1. Effect on other laws. The powers and duties of
8 the Auditor General under this Act and the system of audits
9 established by this Act are in addition to any other powers,
10 duties or audits required or authorized by law.

11 Where records or information are classified as
12 confidential, by or pursuant to law, such records or
13 information shall be disclosed to the Office of the Auditor
14 General as necessary and to the extent required for the
15 performance of an authorized post audit. Federal tax
16 information shall only be provided in accordance with federal
17 law and regulation applicable to the safeguarding of federal
18 tax information. ~~However, only a payroll employee of the Office~~
19 ~~of the Auditor General, specifically designated in writing by~~
20 ~~the Auditor General, may receive confidential income tax~~
21 ~~records.~~

22 Confidential records or information disclosed to the
23 Office of the Auditor General shall be subject to the same

1 legal confidentiality and protective restrictions in the
2 Office of the Auditor General as such records and information
3 have in the hands of the official authorized custodian. Any
4 penalties applicable to the officially authorized custodian or
5 his employees for the violation of any confidentiality or
6 protective restrictions applicable to such records or
7 information shall also apply to the officers, employees,
8 contractors, and agents of the Office of the Auditor General.

9 The Office of the Auditor General may not publish any
10 confidential information or records in any report, including
11 data and statistics, if such information as published is
12 directly or indirectly matchable to any individual.

13 Inside the Office of the Auditor General, confidential
14 records or information may be used only for official purposes.

15 Any officer, employee, contractor, or agent of the Office
16 of the Auditor General who violates any legal confidentiality
17 or protective restriction governing any records or information
18 shall be guilty of a Class A misdemeanor unless a greater
19 penalty is otherwise provided by law.

20 Where this Act expressly governs or grants authority for
21 regulations to govern other auditing procedures, this Act
22 supersedes all other statutes to the contrary. To the extent
23 that this Act conflicts with another statute, this Act
24 prevails.

25 Except as provided in this Section, this Act does not
26 supersede or repeal by implication any other statute.

1 (Source: P.A. 82-414.)

2 Section 10. The Illinois Income Tax Act is amended by
3 changing Section 917 as follows:

4 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

5 Sec. 917. Confidentiality and information sharing.

6 (a) Confidentiality. Except as provided in this Section,
7 all information received by the Department from returns filed
8 under this Act, or from any investigation conducted under the
9 provisions of this Act, shall be confidential, except for
10 official purposes within the Department or pursuant to official
11 procedures for collection of any State tax or pursuant to an
12 investigation or audit by the Illinois State Scholarship
13 Commission of a delinquent student loan or monetary award or
14 enforcement of any civil or criminal penalty or sanction
15 imposed by this Act or by another statute imposing a State tax,
16 and any person who divulges any such information in any manner,
17 except for such purposes and pursuant to order of the Director
18 or in accordance with a proper judicial order, shall be guilty
19 of a Class A misdemeanor. However, the provisions of this
20 paragraph are not applicable to information furnished to (i)
21 the Department of Healthcare and Family Services (formerly
22 Department of Public Aid), State's Attorneys, and the Attorney
23 General for child support enforcement purposes and (ii) a
24 licensed attorney representing the taxpayer where an appeal or

1 a protest has been filed on behalf of the taxpayer. If it is
2 necessary to file information obtained pursuant to this Act in
3 a child support enforcement proceeding, the information shall
4 be filed under seal. The furnishing upon request of the Auditor
5 General, or his or her authorized agents, for official use of
6 returns filed and information related thereto under this Act is
7 deemed to be an official purpose within the Department within
8 the meaning of this Section.

9 (b) Public information. Nothing contained in this Act shall
10 prevent the Director from publishing or making available to the
11 public the names and addresses of persons filing returns under
12 this Act, or from publishing or making available reasonable
13 statistics concerning the operation of the tax wherein the
14 contents of returns are grouped into aggregates in such a way
15 that the information contained in any individual return shall
16 not be disclosed.

17 (c) Governmental agencies. The Director may make available
18 to the Secretary of the Treasury of the United States or his
19 delegate, or the proper officer or his delegate of any other
20 state imposing a tax upon or measured by income, for
21 exclusively official purposes, information received by the
22 Department in the administration of this Act, but such
23 permission shall be granted only if the United States or such
24 other state, as the case may be, grants the Department
25 substantially similar privileges. The Director may exchange
26 information with the Department of Healthcare and Family

1 Services and the Department of Human Services (acting as
2 successor to the Department of Public Aid under the Department
3 of Human Services Act) for the purpose of verifying sources and
4 amounts of income and for other purposes directly connected
5 with the administration of this Act, the Illinois Public Aid
6 Code, and any other health benefit program administered by the
7 State. The Director may exchange information with the Director
8 of the Department of Employment Security for the purpose of
9 verifying sources and amounts of income and for other purposes
10 directly connected with the administration of this Act and Acts
11 administered by the Department of Employment Security. The
12 Director may make available to the Illinois Workers'
13 Compensation Commission information regarding employers for
14 the purpose of verifying the insurance coverage required under
15 the Workers' Compensation Act and Workers' Occupational
16 Diseases Act. The Director may exchange information with the
17 Illinois Department on Aging for the purpose of verifying
18 sources and amounts of income for purposes directly related to
19 confirming eligibility for participation in the programs of
20 benefits authorized by the Senior Citizens and Persons with
21 Disabilities Property Tax Relief and Pharmaceutical Assistance
22 Act. The Director may exchange information with the State
23 Treasurer's Office and the Department of Employment Security
24 for the purpose of implementing, administering, and enforcing
25 the Illinois Secure Choice Savings Program Act. The Director
26 may exchange information with the State Treasurer's Office for

1 the purpose of administering the Revised Uniform Unclaimed
2 Property Act or successor Acts.

3 The Director may make available to any State agency,
4 including the Illinois Supreme Court, which licenses persons to
5 engage in any occupation, information that a person licensed by
6 such agency has failed to file returns under this Act or pay
7 the tax, penalty and interest shown therein, or has failed to
8 pay any final assessment of tax, penalty or interest due under
9 this Act. The Director may make available to any State agency,
10 including the Illinois Supreme Court, information regarding
11 whether a bidder, contractor, or an affiliate of a bidder or
12 contractor has failed to file returns under this Act or pay the
13 tax, penalty, and interest shown therein, or has failed to pay
14 any final assessment of tax, penalty, or interest due under
15 this Act, for the limited purpose of enforcing bidder and
16 contractor certifications. For purposes of this Section, the
17 term "affiliate" means any entity that (1) directly,
18 indirectly, or constructively controls another entity, (2) is
19 directly, indirectly, or constructively controlled by another
20 entity, or (3) is subject to the control of a common entity.
21 For purposes of this subsection (a), an entity controls another
22 entity if it owns, directly or individually, more than 10% of
23 the voting securities of that entity. As used in this
24 subsection (a), the term "voting security" means a security
25 that (1) confers upon the holder the right to vote for the
26 election of members of the board of directors or similar

1 governing body of the business or (2) is convertible into, or
2 entitles the holder to receive upon its exercise, a security
3 that confers such a right to vote. A general partnership
4 interest is a voting security.

5 The Director may make available to any State agency,
6 including the Illinois Supreme Court, units of local
7 government, and school districts, information regarding
8 whether a bidder or contractor is an affiliate of a person who
9 is not collecting and remitting Illinois Use taxes, for the
10 limited purpose of enforcing bidder and contractor
11 certifications.

12 The Director may also make available to the Secretary of
13 State information that a corporation which has been issued a
14 certificate of incorporation by the Secretary of State has
15 failed to file returns under this Act or pay the tax, penalty
16 and interest shown therein, or has failed to pay any final
17 assessment of tax, penalty or interest due under this Act. An
18 assessment is final when all proceedings in court for review of
19 such assessment have terminated or the time for the taking
20 thereof has expired without such proceedings being instituted.
21 For taxable years ending on or after December 31, 1987, the
22 Director may make available to the Director or principal
23 officer of any Department of the State of Illinois, information
24 that a person employed by such Department has failed to file
25 returns under this Act or pay the tax, penalty and interest
26 shown therein. For purposes of this paragraph, the word

1 "Department" shall have the same meaning as provided in Section
2 3 of the State Employees Group Insurance Act of 1971.

3 (d) The Director shall make available for public inspection
4 in the Department's principal office and for publication, at
5 cost, administrative decisions issued on or after January 1,
6 1995. These decisions are to be made available in a manner so
7 that the following taxpayer information is not disclosed:

8 (1) The names, addresses, and identification numbers
9 of the taxpayer, related entities, and employees.

10 (2) At the sole discretion of the Director, trade
11 secrets or other confidential information identified as
12 such by the taxpayer, no later than 30 days after receipt
13 of an administrative decision, by such means as the
14 Department shall provide by rule.

15 The Director shall determine the appropriate extent of the
16 deletions allowed in paragraph (2). In the event the taxpayer
17 does not submit deletions, the Director shall make only the
18 deletions specified in paragraph (1).

19 The Director shall make available for public inspection and
20 publication an administrative decision within 180 days after
21 the issuance of the administrative decision. The term
22 "administrative decision" has the same meaning as defined in
23 Section 3-101 of Article III of the Code of Civil Procedure.
24 Costs collected under this Section shall be paid into the Tax
25 Compliance and Administration Fund.

26 (e) Nothing contained in this Act shall prevent the

1 Director from divulging information to any person pursuant to a
2 request or authorization made by the taxpayer, by an authorized
3 representative of the taxpayer, or, in the case of information
4 related to a joint return, by the spouse filing the joint
5 return with the taxpayer.

6 (Source: P.A. 99-143, eff. 7-27-15; 99-571, eff. 7-15-16;
7 100-47, eff. 8-11-17; 100-863, eff. 8-14-18.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.